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OFFICE OF PETITIONS

In re Application of
Perkowski
Application No. 08/871,815
Filed: June 9, 1997
Attorney Docket No. 100-006USA000

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: DECISION ON PETITION
: UNDER 37 CFR 1.181
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This is a decision on the petition under 37 CFR 1.181, filed September 21, 2006 (certificate of mailing date September 18, 2006), to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicant's alleged failure to file corrected formal drawings within three months of the mail date of the September 16, 2005 Notice of Allowability. The Office contended that this application became abandoned on December 17, 2005. A Notice of Abandonment was mailed on August 29, 2006.

Petitioner asserts that a reply was timely filed on certificate of mailing date December 16, 2005 and received in the Office on December 21, 2005. In support of this assertion, petitioner has provided a copy of applicant' response that contains a proper certificate of mailing bearing a December 16, 2005 date of deposit.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The

person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The "Submission of Formal Drawings" bears a proper certificate of mailing, dated December 16, 2005, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. In addition, the individual signing the certificate, Thomas J. Perkowski, had reasonable basis to expect that the correspondence would be mailed on December 16, 2005.

In addition, petitioner has submitted an itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing December 21, 2005 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a 16 sheets of formal drawings. The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on December 21, 2005. MPEP 503.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the August 29, 2006 Notice of Abandonment is vacated.

After the mailing of this decision, the application file will be returned to Publications Division for consideration of the drawings, filed on certificate of mailing date December 16, 2005 and resubmitted with the present petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

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